



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Dale Clifford, et. al.

Group Art Unit: 3738

SERIAL NO.: 10/076,122

Examiner: To be assigned.

FILED: February 14, 2002

Attorney Docket No.: 6005.019

**TITLE: ORTHOPEDIC IMPLANT AND METHOD
FOR ORTHOPEDIC TREATMENT**

PETITION TO REVIVE PURSUANT TO 37 C.F.R. 1.137(f)

Assistant Commissioner for Patents

Washington, D.C. 20231

SIR:

EV221201670US

Applicant hereby requests that the above-identified patent application, U.S. Serial No. 10/076,122, be revived, pursuant to 37 C.F.R. 1.137 (b), and that the status of the application be returned to pending.

On July 22, 2002, a "Notice Of Incomplete Reply" to the "Notice To File Missing Parts of Nonprovisional Application" was mailed by the PTO to applicant's attorney. The undersigned attorney prepared a response to comply with the "Notice of Incomplete Reply" by September 5, 2002, however, the undersigned attorney had not received payment of \$1440.00, the amount of fees required to be paid for the reply. The undersigned attorney has been trying to procure the payment for the fees associated with the reply and this petition to revive ever since September 5, 2002. Consequently, based on the above facts, any delay in filing the formal drawings in reply to the "Notice of Incomplete Reply" for application U.S. serial number 10/076,122, from the due date was unintentional and any delay was unintentional.

Pursuant to 37 C.F.R. 1.137, the petition is accompanied by: (1) drawings in response to "Notice of Incomplete Reply" and (2) the petition fee under 1.17(m). The undersigned attorney

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has included a check in the amount of \$1440.00 for the fees for the response to the "Notice of Incomplete Reply" and a credit card payment form for the Petition to Revive fee of \$1280.00.

The undersigned respectfully requests prompt attention to this matter.

Respectfully submitted,


Richard J. Danyko
Registration No. 33,672

December 18, 2002 *rd*
Date: November 18, 2002 *rd*
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PTO/SB/64 (10-01)

Approved for use through 10/31/2002. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) 6005.109
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First named inventor: Dale Clifford

Application No.: 10/076,122

Art Unit: 3837

Filed: 02/14/2002

Examiner: To Be Assigned

Title: ORTHOPEDIC IMPLANT AND METHOD FOR ORTHOPEDIC TREATMENT

Attention: Office of Petitions
Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

 Small entity-fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27. Other than small entity - fee \$ 1280.00 (37 CFR 1.17(m))

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2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____ (identify type of reply):

- has been filed previously on _____
- is enclosed herewith.

B. The issue fee of \$ _____.

- has been paid previously on _____
- is enclosed herewith.

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Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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C2 FC:1453

3. Terminal disclaimer with disclaimer fee

- Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

December 18, 2002

Date

Signature

Telephone
Number: (212) 328-6100

Richard J. Danyko

Typed or printed name

499 Park Avenue, 20th Floor

Address

New York, NY 10022

Enclosures: Fee Payment Reply Terminal Disclaimer Form Additional sheets containing statements establishing unintentional delay Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

- deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Box DAC, Washington, D.C. 20231.
- transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

Date

Signature

Type or printed name of person signing certificate